

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

IRON WORKERS LOCAL UNION NO.)	
92 MONEY PURCHASE PENSION)	
FUND; IRON WORKERS LOCAL)	
UNION NO. 92 HEALTH AND)	
WELFARE FUND,)	
)	
Plaintiffs,)	
)	CV 04-B-2505-S
vs.)	
)	
CBN STEEL CONSTRUCTION, INC.,)	
)	
Defendant.)	

FINDINGS AND CONCLUSIONS

This case is before the court on plaintiffs' Motion for Default Judgment, (doc. 13),¹ in favor of plaintiffs and against defendant. Pursuant to Rule 55, Federal Rules of Civil Procedure, the court makes the following findings and conclusions:

1. Plaintiffs properly served the Summons and Complaint upon defendant on May 13, 2006. To date, defendant has failed to appear, plead, or otherwise defend.

2. Defendant "is a corporation with offices located in Novi Michigan. Defendant transacts business in the State of Alabama and at all relevant times . . . was an 'employer in an industry affecting commerce' as defined in 29 U.S.C. §§ 142(1), (3), and 152(2)." (Doc.

1 ¶ 3.)

¹Reference to a document number, ["Doc. ____"], refers to the number assigned to each document as it is filed in the court's record.

3. In their well-pleaded Complaint, plaintiffs allege that defendant breached the collective bargaining agreement by failing to make contributions to plaintiffs during the months of February, March, and April of 2004. (Doc. 1 ¶¶ 4-7.) The collective bargaining agreement provides for 10% interest per annum on unpaid contribution and a penalty equal to 10% of the delinquent contributions. (*Id.* ¶ 9.) The collective bargaining agreement also provides defendant will pay attorney's fees and costs of any collection action. (*Id.*) Because defendant has failed to defend against these allegations and is in default, the court finds that it has admitted such facts and its liability for failure to make contributions to plaintiffs is established. *See Nishimatsu Const. Co., Ltd. v. Houston Nat. Bank*, 515 F.2d 1200, 1206 (5th Cir. 1975), *cited in Cotton v. Massachusetts Mut. Life Ins. Co.*, 402 F.3d 1267, 1278 (11th Cir. 2005).

4. Plaintiffs have submitted evidence that they are entitled to judgment against defendant in the amount of \$43,939.00. (Doc. 13, Att. ¶ 9.) This amount includes defendant's unpaid contributions of \$24,859.85; attorneys' fees and expenses of \$3,732.40; a 10% penalty; and interest of 10% per annum. (*Id.* ¶¶ 6-7, 9.) A judgment in favor of plaintiffs and against defendant for the sum of \$43,939.00, will be entered contemporaneously with these Findings and Conclusions.

The Clerk of the Court is **DIRECTED** to serve defendant with a copy of these Findings and Conclusions at the following addresses:

CBN Steel Construction, Inc.
c/o Cyndi Nestor, President

43700 W. 12 Mile Road
Novi, Michigan 48377

CBN Steel Construction, Inc.
c/o Cyndi Nestor, President
36333 Northline Road
Romulus, Michigan 48174

CBN Steel Construction, Inc.
c/o Cyndi Nestor, President
3317 Pine Creek Drive
Brighton, Michigan 48114

DONE, this the 31st day of August, 2007.

A handwritten signature in black ink, reading "Sharon Lovelace Blackburn". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

SHARON LOVELACE BLACKBURN
CHIEF UNITED STATES DISTRICT JUDGE